

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 1061 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE K.J.Vaidya

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJ.

Versus

VAGHELA BAKORSINH RATANSINH

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Appearance:

PUBLIC PROSECUTOR for Petitioner

MR JM PANCHAL for Respondents.

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CORAM : MR.JUSTICE K.J.Vaidya

Date of decision: 03/03/97

ORAL JUDGEMENT

This appeal by the State of Gujarat is directed against the impugned judgment and order dated

31.8.1990 rendered in Criminal case no. 707 of 1987 passed by the learned Judicial Magistrate, First Class, Sanand, wherein Vaghela Bakorsinh Ratansinh and seven others who came to be tried for the alleged offences punishable under sections 143, 147, 148, 323, 504, 506(2) of Indian Penal Code read with sections 3 and 7 of the Protection of Civil Rights Act, were at the end of the trial, ordered to be acquitted.

2. To state the prosecution case briefly, the incident in question took place on 19.10.1987 at 5.30 p.m. in Panchayat office at village Daduka when p.w. 1 Solanki Dineshbhai Galabhai, p.w. 2 Lalabhai Somabhai, p.w. 3 Chaturbhai Keshabhai and p.w. 4 Budhabhai Bachubhai were watching T.V. They came to be assaulted by the accused persons. Four accused persons who gave them blows with sticks saying "Shala Dheda, why are you sitting with open buttons ". On the basis of this fact, the complaint was filed and after the investigation was over, the accused came to be charge-sheeted, to stand trial for the aforesaid alleged offences before the learned Magistrate. At the trial, the respondents pleaded not guilty and came to be tried and acquitted giving rise to the present appeal as stated in para 1 of this judgment.

3. Heard learned A.P.P.Mr. B.D.Desai and learned advocate Mr. J.M.Panchal, for the respondents.

4. Mr. B.D. Desai, while challenging the impugned judgment and order, has carefully taken me through relevant prosecution evidence as well as the reasons for acquittal given by the trial court. The learned A.P.P. submitted that there was evidence of the injured witnesses and in that view of the matter, the learned Magistrate was not justified in lightly acquitting the accused.

5. On going through the evidence and the reasons for acquittal, it is not possible to say that no incident at all had taken place. But at the same time, looking to the material improvements in the evidence of the prosecution witnesses, it clearly appears that some gloss has been given to the prosecution to rope in innocent persons from family. As many as eight persons have been involved in a case where possibility of some of them being innocent cannot be ruled out. It appears that on the basis of this, the learned Magistrate has given benefit of doubt acquitting the accused. In this view of the matter, when the learned A.P.P. Mr. Desai was asked to point out as to how reasons for acquittal were

perverse calling for interference in an acquittal appeal, after making some feeble futile attempt to satisfy this court, ultimately, he was unable to persuade this Court to take a view contrary to the one already taken by the trial Court. Since this court is ultimately in agreement with overall appreciation of the evidence and the ultimate conclusion of acquittal, it is not necessary to re-narrate the evidence of each and every witness, re-appreciate the same and give separate findings. Suffice it to say that the reasons given by the learned Magistrate while acquitting the accused cannot be said to be perverse calling for any interference by this court. In this view of the matter, since there is nothing on the basis of which this acquittal appeal can be interfered with, the order passed by the learned Magistrate required to be sustained.

6. In the result, this appeal fails and is hereby dismissed accordingly.